

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NORTH DAKOTA
SOUTHWESTERN DIVISION**

United States of America,)	
)	
Plaintiff,)	
)	
vs.)	Case No. 1:08-cr-54
)	
Howard O. Kieffer,)	
)	
Defendant,)	ORDER ADOPTING REPORT AND
)	RECOMMENDATION AND
and)	ORDER FOR GARNISHMENT
)	
Fidelity Investments and,)	
Fidelity Brokerage Services, LLC,)	
)	
Garnishee.)	

A Writ of Garnishment was issued to the garnishee, on December 2, 2009. The garnishee filed an Answer on January 5, 2010, stating that, at the time of the service of the Writ it had in its possession or under its control personal property in the form of a 529 College Savings Plan, belonging to Kieffer valued at \$333.00 with a notation that the value was subject to market fluctuations.

Kieffer filed an objection and requested a hearing. The Court referred the hearing to Magistrate Judge Charles S. Miller, Jr. A telephonic hearing was held before Judge Miller on March 26, 2010. Judge Miller issued his Report and Recommendation on April 28, 2010. Kieffer did not file an objection to the Report and Recommendation.

The Court has carefully reviewed the Report and Recommendation and finds it to be persuasive, thorough, and accurate. The Court agrees with Judge Miller that Kieffer's objections lack merit. In addition and upon review of the entire file, the Court finds that the requirements

of 28 U.S.C. §§ 3202 and 3205 have been met.

Accordingly, the Court **ADOPTS** the Report and Recommendation in its entirety and **ORDERS** as follows:

1. Fidelity Brokerage Services, LLC be added as an additional garnishee.
2. Kieffer's objections to the garnishment are overruled.
3. That garnishee, Fidelity Brokerage Services, LLC, issue a check payable to United States Clerk of Court for all funds held in the 529 College Savings Plan identified in garnishee's Answer and mail the check to the United States Clerk of Court, P. O. Box 1193, Bismarck, North Dakota 58502-1193.

IT IS SO ORDERED.

Dated this 28th day of May, 2010.

/s/ Patrick A. Conmy
Patrick A. Conmy, Senior District Judge
United States District Court